

STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-153

April 26, 2002

JONATHAN REISMAN, ET AL
Request for Commission Action to Initiate a
Rulemaking Amendment Proceeding to
Chapter 306 to Correct Alleged Inaccurate
Information in the Label Description

ORDER DENYING
REQUEST FOR
RULEMAKING

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

SUMMARY

Through this Order, we deny the request to reopen Chapter 306 of the Commission's rules to consider modifications to the uniform label requirements with respect to CO₂ information.

BACKGROUND AND DISCUSSION

On March 19, 2002, Jon Reisman filed a petition of ten ratepayers asking the Commission to reopen Chapter 306 of its rules. Chapter 306 contains requirements for the content and distribution of uniform disclosure labels. The petitioners request that the Commission reopen the rule to correct what in their view is inaccurate and misleading information with respect to CO₂. Specifically, the petitioners object to the language on the back of the label that characterizes CO₂ as a "pollutant" and the statement that CO₂ is "considered a greenhouse gas and a major contributor to global warming."

We decline the petitioners request to reopen the rule at this time. Chapter 306 was one of a number of rules the Commission was required to promulgate to implement the restructuring of the electric industry in Maine. Chapter 306 was adopted as a result of a legislative directive that the Commission establish by rule requirements that would enhance the ability of consumers to effectively make informed choices among competitive providers of electricity. 35-A M.R.S.A. § 3203(3). In adopting rules pursuant to 35-A M.R.S.A. § 3203(3), section 4 of the Restructuring Act, P.L. 1997, ch. 316, required the Commission to consider requirements for competitive providers to submit comparisons of various air emissions associated with their generation sources to regional averages; this legislation includes CO₂ among a list of air emissions.

Chapter 306 was based on a model rule sanctioned by the New England Conference of Public Utility Commissioners, which consists of the six New England utility commissions. See *Order Provisionally Adopting Rule*, Docket No. 98-708 at 2-5 (Feb. 23, 1999). The Commission adopted Chapter 306 pursuant to the procedural

requirements of Maine's Administrative Procedures Act, 5 M.R.S.A. §§ 8051-8074, and the Commission's procedural rules, Chapter 110, Part 5. Under these procedures, all members of the public had the opportunity to comment on the rule and no commenter raised objections similar to those of the petitioners regarding CO₂. Additionally, Chapter 306 is a major substantive rule, and accordingly, its provisions were explicitly approved by the Legislature. Resolves 1999, ch.34.

For these reasons, we see no immediate need to reopen Chapter 306 to consider the petitioners concerns. However, the Commission does examine its rules periodically to consider modifications based on its experience in implementation. The Commission anticipates reopening Chapter 306 during this year to examine how the rule has operated since the beginning of retail access and to consider appropriate modifications to all aspects of the rule. We will notify Mr. Reisman of the rulemaking when the process is initiated.

Accordingly, we

O R D E R

That the petition to reopen Chapter 306 of the Commission's rules is denied.

Dated at Augusta, Maine, this 26th day of April, 2002.

BY ORDER OF THE COMMISSION

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR:	Welch Diamond
COMMISSIONER ABSENT:	Nugent

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.
2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.
3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.